

# **EXHIBIT 1**

**From:** Aoyagi, Melissa T.  
**Sent:** Wednesday, May 05, 2010 7:19 PM  
**To:** 'Elizabeth G. Eager'; 'Steven J. Rosenwasser'  
**Cc:** Wise, Jr., Robert F.; Fenrich, William J.  
**Subject:** TASER Litigation Traders

Liz and Steven,

We write in response to your April 20, 2010 request (below) that Morgan Stanley & Co. Incorporated (MSCO) "identify and produce responsive documents from the individuals associated with the following trading numbers and/or identifiers: 00003, 00388, 03319, 03420, 3, 1441, 3319, ftscomp and msssiusr. Plaintiffs also request that responsive documents from Peter Muller be produced." We are also responding to your assertion that, pursuant to the August 12, 2009 agreement, "responsive information is due 30 calendar days from" April 20.

As an initial matter, your e-mail notes that your review is still ongoing and you may identify additional traders on a rolling basis for an as-yet indefinite period of time. It is unduly burdensome and impractical for us meaningfully to attempt to reach a resolution with you concerning the ESI searches of trading personnel through responses to piecemeal and indefinite requests for information. You have had the MSCO trading data since last Fall, which is ample time to permit you to compile a substantially complete list of proposed custodians, subject to the right to later request one or two additional custodians based upon subsequently produced materials. When we have received your substantially complete list of proposed "trading" custodians, we would be happy to meet and confer regarding the ESI collection and review protocol for trading personnel such that we can resolve any search issues at one time, submit one search request to our client to retrieve the agreed upon ESI, and minimize the costs and burdens associated with such a review. Further, your request that documents be produced within 30 days purports to be pursuant to the August 12, 2009 stipulation regarding Defendants' responses to Plaintiffs' First Interrogatories to Defendants. However, the August 12, 2009 stipulation referenced in your email only addressed the identification of traders, not the production of documents.

In response to the list that you have provided to date, we note the following:

- First, based on our current investigation, we assume that "ftscomp" and "msssiusr" are references to values in the "fgCreatedBy" and "fgLastAmendBy" columns in the locate records produced as MS\_TASR\_A\_00037089R through MS\_TASR\_A\_00037093R. It is our understanding that both of these references are to systems, rather than people.
- Second, with respect to the numbers that you listed, please clarify the distinction that you are drawing between "00003" and "3" and between "03319" and "3319," which appear to be duplicative requests. Setting aside this issue, we are assuming that you derived these numbers from the trade runs and as such, to the extent you are referring to the registered representative numbers that appear therein, we are in the process of retrieving information concerning a person or persons, if any, to which each of the numbers you have cited correlates, and are willing to provide you with any such responsive information identified through a reasonably diligent search.
- Third, it is our understanding that Peter Muller is part of the process driven trading (PDT) group, which engages in what is commonly called program or systematic trading. As you are no doubt aware, program trading is driven by computer algorithms. We are

therefore unclear as to what responsive ESI you believe Mr. Muller possesses; however, to the extent that you identify a specific time frame during which you allege that Mr. Muller engaged in trading likely to generate responsive ESI, we are willing to discuss with you the possibility of searching his documents, subject to agreement on an appropriate and reasonable time frame and set of key terms.

Finally, as to these as well as any additional trading personnel that you may identify, we request that you include a citation to the MSCO document upon which your identification is based, attach that document or (in the case of a spreadsheet) an excerpt from that document containing information about that individual, and identify the time periods of trading activity and the account through which their trading activity was effected. This will enable us to effectively meet and confer with you regarding that identification. In addition, please provide us with the keywords for which you request that we search each trader's email, as well as the time period during which such individual engaged in trading you believe is likely to yield responsive ESI.

Thanks very much,  
Melissa

Melissa T. Aoyagi

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**From:** Elizabeth G. Eager [mailto:[eager@bmelaw.com](mailto:eager@bmelaw.com)]  
**Sent:** Tuesday, April 20, 2010 11:34 AM  
**To:** Wise, Jr., Robert F.; Aoyagi, Melissa T.  
**Cc:** Steven J. Rosenwasser; Nicole G. Iannarone  
**Subject:** TASER Litigation Traders

Bob and Melissa,

On August 12, 2009, the parties entered into a stipulation regarding the identification and production of documents from traders. Pursuant to that stipulation, Plaintiffs request that Morgan Stanley identify and produce responsive documents from the individuals associated with the following trading numbers and/or identifiers: 00003, 00388, 03319, 03420, 3, 1441, 3319, ftscomp and mssiusr. Plaintiffs also request that responsive documents from Peter Muller be produced.

Plaintiffs understand the numbers referenced above may represent the head trader of a trading desk and that there could be multiple assistants to the head trader that have

significant relevant communications with clients and departments within each defendant's operations. Therefore, we request that for each of these trading desks identified, you identify the persons reasonably likely to have responsive information, you search those persons electronically-stored information and produce any responsive materials.

Pursuant to the stipulation, responsive information is due within 30 calendar days from today. Plaintiffs explicitly reserve the right to request information about additional traders (we are providing a partial list now in order to expedite the process, but we expect our continuing review is likely to identify other traders).

Thank you,  
Liz Eager

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